

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Acelia L. Madril, et al.,
Plaintiff(s),
v.
Andrew M. Ellis, et al.,
Defendant(s).

No. CV-22-00117-PHX-JJT

RULE 16 SCHEDULING ORDER

Pursuant to the terms of the Joint Proposed Case Management Plan and the representations made by the parties at the Pretrial Scheduling Conference, all parties shall comply with the deadlines established in this Order.

IT IS ORDERED as follows:

The Court will strictly enforce the deadlines set forth in this Rule 16 Scheduling Order. Furthermore, the Court will not grant extensions to the dispositive motion cutoff date due to case processing problems, discovery disputes, or settlement negotiations.

The Federal Rules of Civil Procedure (Fed. R. Civ. P.) in effect on the date Plaintiff(s) filed this lawsuit shall apply to all proceedings concerning this case, except to the extent they are inconsistent with this Order, in which instance the provisions of this Order control.

1. All Initial Disclosures as defined in Fed. R. Civ. P. 26(a), if not already disclosed prior to the Scheduling Conference, shall be made no later than N/A.

1 2. To satisfy the requirements of Fed. R. Civ. P. 26(a), the parties shall file with
2 the Clerk of the Court a Notice of Initial Disclosure, rather than copies of the actual
3 disclosures.

4 3. Motions to amend the Complaint and to join additional parties shall be filed
5 no later than 6/28/2022.

6 4. Fact discovery shall be completed by 10/28/2022.

7 5. All parties shall disclose the identity of all persons whom they may call at
8 trial to present evidence under Rules 702, 703, 704, or 705 of the Federal Rules of Evidence
9 (Fed. R. Evid.) no later than N/A. All parties shall disclose the identity of all persons
10 providing rebuttal expert testimony no later than N/A. These disclosures shall be full and
11 complete as required by Fed. R. Civ. P. 26(a)(2)(A)-(C).

12 The disclosures of the identities of all persons whom a party may call at trial to
13 present evidence under Fed. R. Evid. 702, 703, 704, or 705 shall also include all of the
14 disclosures required by Fed. R. Civ. P. 26(a)(2)(B) if the witness is either (1) retained or
15 specifically employed to provide expert testimony in the case, or (2) is an agent or
16 employee of the party offering the testimony whose duties regularly involve giving expert
17 testimony. No deposition of any expert witness shall occur before the disclosures
18 concerning expert witnesses mandated by this Order are made. Expert reports disclosed
19 under Fed. R. Civ. P. 26(a)(2)(B) must set forth “the testimony the witness is expected to
20 present during direct examination, together with the reasons therefor.” Full and complete
21 disclosures of such testimony are required on or before the dates set forth above; absent
22 truly extraordinary circumstances, parties will not be permitted to supplement their expert
23 reports after these dates.

24 6. Discovery by interrogatory shall be governed by Fed. R. Civ. P. 33 unless
25 otherwise ordered by the Court. Therefore, there is a limit of twenty-five (25)
26 interrogatories, including discrete subparts.

27 7. With regard to responses to requests for admission, requests for production,
28 and interrogatories, the Federal Rules of Civil Procedure do not permit “general” or

1 “global” objections. Accordingly, the Court will neither consider nor rule on objections
2 that are not specific to the individual request propounded.

3 8. Depositions shall be limited as provided by Fed. R. Civ. P. 30 and 31.

4 9. The parties shall not file written discovery motions without leave of the
5 Court. Except during a deposition, if a discovery dispute arises and cannot be resolved
6 despite sincere efforts to resolve the matter through personal consultation (in person or by
7 telephone), the parties shall jointly file (1) a brief written summary of the dispute, not to
8 exceed one page per side, with an explanation of the position taken by each side; and (2) a
9 joint written certification that counsel or the parties have attempted to resolve the matter
10 through personal consultation and sincere effort as required by Local Rule of Civil
11 Procedure (LRCiv) 7.2(j) and have reached an impasse. If the opposing party has refused
12 to personally consult, the party seeking relief shall describe the efforts made to obtain
13 personal consultation. Upon review of the filed written summary of the dispute, the Court
14 may set a telephonic conference, order written briefing, or decide the dispute without
15 conference or briefing. Any briefing ordered by the Court shall also comply with LRCiv
16 7.2(j). If a discovery dispute arises in the course of a deposition and requires an immediate
17 ruling of the Court—a circumstance that should be exceedingly rare—the parties shall
18 jointly contact the Court telephonically. The Court will not entertain discovery disputes
19 after the close of discovery absent truly extraordinary circumstances.

20 10. All discovery must be completed by **10/28/2022**, including depositions of
21 parties, witnesses and experts; answers to interrogatories; and supplements to interrogatory
22 answers. This deadline does not alter the duties and obligations imposed on the parties by
23 Fed. R. Civ. P. 26(e). Each party shall conduct discovery in an expeditious manner so as to
24 complete any and all discovery by the deadline. “Complete” includes the time to propound
25 discovery, the time to answer all propounded discovery, the time for the Court to resolve
26 all discovery disputes, and the time for the parties to conduct any final discovery
27 necessitated by the Court’s ruling on any discovery disputes. Thus, the Court will view
28 with disfavor any “last minute” or “eleventh hour” discovery activity that leaves

1 insufficient time to undertake additional discovery and requires an extension of the
2 discovery deadline, and, in such an instance, the Court may deny a requested extension,
3 exclude evidence, or impose other sanctions.

4 11. Although General Order 20-21, dated April 16, 2020, made May 1, 2020 the
5 termination date of the Mandatory Initial Discovery Project ("MIDP") initiated in this
6 District on May 1, 2017 by General Order 17-08, the Court will enforce one aspect of
7 General order 17-08 in this case. With regard to the duty to supplement discovery under
8 Fed. R. Civ. P. 26(e), the parties must supplement initial disclosures as well as responses
9 to other discovery requests within the 30-days-from-discovery-or-revelation deadline set
10 by General Order 17-08 at 3 ¶ 8. (See General Order 17-08, as amended Nov. 1, 2018.)

11 12. The parties must complete all pre-trial disclosures required under
12 Fed. R. Civ. P. 26(a)(3), of all exhibits to be used and all witnesses to be called at trial, on
13 or before 8/22/2022 so that the parties can complete meaningful discovery necessitated by
14 those disclosures before the discovery deadline. This Order supersedes the "30 days before
15 trial" disclosure deadline contained in Fed. R. Civ. P. 26(a)(3). Therefore, (1) failure to
16 timely supplement responses and disclosures made under Fed. R. Civ. P. 26(a), including
17 witnesses and exhibits for trial; (2) failure to timely supplement responses to any valid
18 discovery requests; and (3) attempts to include witnesses or exhibits in the Joint Proposed
19 Final Pretrial Order that were not previously disclosed in a timely manner may result in the
20 exclusion of such evidence at trial or the imposition of other sanctions pursuant to
21 Fed. R. Civ. P. 37, the Local Rules of the District Court, and the inherent power of the
22 Court.

23 13. Good faith settlement discussions shall be held no later than 5/27/2022.

24 14. All dispositive motions, **including *Daubert* motions**,¹ shall be filed no later
25 than 12/1/2022. A party or parties represented by the same lawyer shall file **no more than**
26 **one motion for summary judgment** unless leave of Court is obtained.

27
28 ¹ Evidentiary motions made under *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S.
579 (1993).

